

Message Text

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PAGE 01 BELGRA 03834 021513Z

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ACTION EUR-25

INFO OCT-01 EA-11 ISO-00 SCS-03 PPT-02 SCA-01 PM-07 L-03

NSC-07 CIAE-00 DODE-00 INR-11 NSAE-00 PA-04 RSC-01

USIA-15 PRS-01 SP-03 NIC-01 SAJ-01 SY-04 DRC-01 /102 W

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R 021407Z AUG 74

FM AMEMBASSY BELGRADE

TO SECSTATE WASHDC 0165

AMEMBASSY CANBERRA

AMEMBASSY OTTAWA

INFO AMCONSUL ZAGREB

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E.O. 11652: N/A

TAGS: CGEN, YO

SUBJECT: CONSULAR ACCESS TO DUAL NATIONALS

REF: BELGRADE 1392 (NOTAL) AND BELGRADE 3835 (NOTAL)

SUMMARY: AFTER LONG STUDY, GOY HAS REVEALED ITS POSITION REGARDING CONSULAR ACCESS TO DUAL NATIONALS. WHILE THERE HAS BEEN SOME GIVE IN NON-POLITICAL CASES, GOY HAS APPARENTLY DECLINED TO PERMIT ACCESS IN CASES DEALING WITH YUGOSLAVIA'S SECURITY INTERESTS. END SUMMARY.

1. ON AUG 1, AMBASSADOR MET WITH SLAVOLJUB PETROVIC, NEWLY PROMOTED TO ASSISTANT FEDERAL SECRETARY FOR FOREIGN AFFAIRS, BUT STILL RESPONSIBLE FOR CONSULAR AFFAIRS AND WORKERS ABROAD. MEETING HAD BEEN REQUESTED BY FSFA ON JULY 31, AND FOLLOWED SIMILAR MEETING OF PETROVIC WITH AUSTRALIAN AMBASSADOR AND PRECEDED SESSION WITH CANADIAN CHARGE.

2. PETROVIC HANDED AMBASSADOR PRO MEMORIA (SEPTTEL) DEALING WITH NOTIFICATION ABOUT AND CONSULAR ACCESS TO DETAINED OR ARRESTED DUAL NATIONALS. OPERATIVE PARTS ARE:

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PAGE 02 BELGRA 03834 021513Z

A. GOY CONCEPT REGARDING TREATMENT OF DUAL NATIONALS IN YUGOSLAVIA IS NOT CHANGED IN PRINCIPLE;

B. HOWEVER, GOY AUTHORITIES WILLING, IN PRACTICE, AND ASSUMING RECIPROCITY, TO NOTIFY CONSULAR OFFICIAL IN CASES OF DETENTION OR ARREST, AND IF DESIRED BY PERSON DETAINED OR ARRESTED, TO "PERMIT CONTACT" WITH HIM.

C. MAIN HITCH IS CONTAINED IN SOMEWHAT OBTUSE PENULTIMATE PARAGRAPH WHICH QUOTED IN FULL. "IN PRINCIPLE, NEITHER SUCH INFORMATION WILL BE GIVEN, NOR CONTACT ALLOWED IN CASES OF A CRIMINAL ACT THE MOTIVES OF WHICH ARE CLOSELY LINKED WITH THE YUGOSLAV NATIONALITY OF THE PERPETRATOR."

3. PETROVIC EXPRESSED GOY APPRECIATION FOR POSITIVE EFFORTS MADE BY DEPT AND EMBASSY IN TRYING TO RESOLVE THIS ISSUE, AND IMPLIED THAT THIS PRO MEMORIA WAS GOY'S ANSWER TO OUR NOTE OF SEPTEMBER 27, 1973. IT HAD BEEN ISSUED IN FORM OF UNILATERAL DECLARATION IN LIGHT OF YUGOSLAV CONSTITUTION AND HAGUE CONVENTION OF 1950. DECLARATION WILL HAVE UNIVERSAL APPLICATION IN YUGOSLAVIA AND COPIES WERE GIVEN TO AUSTRALIAN, CANADIAN AND AMERICAN EMBASSIES IN VIEW OF THEIR SPECIAL INTEREST AND CONTRIBUTIONS TOWARD A SOLUTION.

4. AMBASSADOR SAID WE WOULD WANT OUR CONSULAR AND LEGAL EXPERTS TO EXAMINE PRO MEMORIA CAREFULLY BEFORE MAKING ANY FORMAL COMMENTS, BUT AFTER FIRST READING, FOLLOWING APPEARED TO NEED CLARIFICATION:

A. EFFECT ON KARDELJ-ALLEN AGREEMENT;

B. PRECISE MEANING OF PENULTIMATE PARAGRAPH.

C. WOULD DECLARATION PERMIT ACCESS BY U.S. CONSULAR OFFICIALS TO THOSE DUAL NATIONALS NOW IN JAIL?

5. PETROVIC RESPONDED THAT:

A. KARDELJ-ALLEN AGREEMENT NOT AFFECTED.

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PAGE 03 BELGRA 03834 021513Z

B. PARAGRAPH IN QUESTION REFERRED TO CRIMES AFFECTING SECURITY OF THE STATE, PARTICULARLY ACTIVITIES OF TERRORIST NATURE.

C. ACCESS WOULD BE PERMITTED IF, IN FACT, THOSE IN JAIL WERE NOT GUILTY OF CRIMES ENVISIONED UNDER AFOREMENTIONED PARAGRAPH.

6. WE PLAN IN DUE COURSE TO TEST NEW POLICY BY APPLYING FOR ACCESS TO THREE DUAL NATIONALS NOW IN JAIL (VLADIMIR DOYCHIN -- BELGRADE 1744; BOB PETRICH -- BELGRADE 1626, 4/5/72; AND PETAR BASIC -- BELGRADE A-74, 2/6/73. OUR JUDGMENT IS THAT ACCESS WILL BE DENIED IN FIRST TWO CASES SINCE MOTIVATION FOR THEIR CRIMES (HOSTILE ACTIVITY AND WAR CRIMES) WILL PROBABLY BE LINKED TO YUGOSLAV NATIONALITY WHILE ACCESS TO BASIC (FIRST-DEGREE MURDER) WILL BE ALLOWED.

7. COMMENT: GOY HAS CLEARLY COME UP WITH PARTIAL SOLUTION TO PROBLEM, BUT AT SAME TIME HAS APPARENTLY KEPT STRING ON ACCESS TO SENSITIVE CASES. POTENTIAL BENEFIT TO AMCITS WILL BECOME CLEARER AS CASES ARISE. WE PLAN COMPARE NOTES WITH AUSTRALIANS AND CANADIANS, AND WOULD APPRECIATE DEPT'S COMMENTS IN ANTICIPATION OF FURTHER MEETING BETWEEN AMBASSADOR AND PETROVIC PROBABLY SOMETIME AFTER AUGUST.
TOON

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